

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRIAN D. MITTS,	Case No. 3:18-CV-0230-HDM (VPC)
Plaintiff,	ORDER
v.	
NANCY A. BERRYHILL, Acting Commissioner, Social Security Administration,	
Defendant.	

Before the court is plaintiff's application to proceed *in forma pauperis* (ECF No. 1).

I. Application to Proceed In Forma Pauperis

Plaintiff filed this action and attached a financial affidavit to the application and complaint as required by 28 U.S.C. § 1915(a). In reviewing plaintiff's financial affidavit pursuant to 28 U.S.C. § 1915, the court finds that plaintiff is unable to pre-pay the filing fee. Therefore, plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is **GRANTED**.

II. Complaint

Plaintiff brings suit against Nancy A. Berryhill, Acting Commissioner of the Social Security Administration, alleging that plaintiff was wrongfully denied social security disability benefits. Federal courts only have jurisdiction to conduct judicial review of Social Security Administration's financial decision. *See* 42 U.S.C. § 405(g); *see also Pacific Coast Medical Enterprises v. Harris*, 633 F.2d 123, 137 (9th Cir. 1980). Upon initial review of plaintiff's complaint, it appears that plaintiff fully exhausted the administrative remedies with the Social Security Administration. The court will therefore allow plaintiff's complaint to proceed as a petition for judicial review of a final agency decision. Therefore,

1 **IT IS ORDERED** that plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is
2 **GRANTED**. At this time, plaintiff shall not be required to pre-pay the full filing fee of four
3 hundred dollars (\$400.00). Plaintiff is permitted to maintain the action to conclusion without the
4 necessity of prepayment of any additional fees, costs, or security therefor. This order granting
5 leave to proceed *in forma pauperis* shall not extend to the issuance of subpoenas at government
6 expense.

7 **IT IS FURTHER ORDERED** that the clerk of court shall **FILE** the complaint.

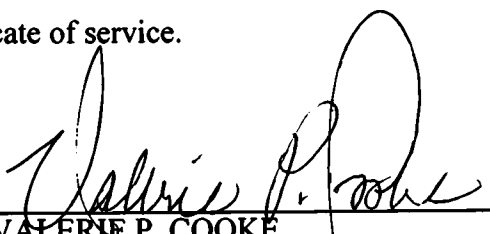
8 **IT IS FURTHER ORDERED** that the clerk of court shall **SERVE** the Commissioner of
9 the Social Security Administration by sending a copy of the Summons and Complaint by certified
10 mail to: (1) the General Counsel, Social Security Administration, Room 611, Altmeyer Building,
11 6401 Security Boulevard, Baltimore, MD 21235; (2) the Attorney General of the United States,
12 Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530; and (3) Office
13 of the Regional Chief Counsel, Region IX, Social Security Administration, 160 Spear Street, Suite
14 899, San Francisco, California 94105.

15 **IT IS FURTHER ORDERED** that the clerk of court shall **ISSUE** a summons to the Social
16 Security Administration and deliver the summons and complaint to the U.S. Marshal for service
17 on the U.S. Attorney's Office at 400 S. Virginia Street, Suite 900, Reno, Nevada 89501.

18 **IT IS FURTHER ORDERED** that defendants shall have **sixty (60) days** from the date of
19 service to file their answer or other responsive pleading to plaintiff's complaint in this case.

20 **IT IS FURTHER ORDERED** that henceforth, plaintiff shall serve upon defendant, or
21 defendant's attorney, a copy of every pleading, motion, or other document submitted for
22 consideration by the court. Plaintiff shall include with the original paper submitted for filing a
23 certificate stating the date that a true and correct copy of the document was mailed to defendant or
24 defendant's counsel. The court may disregard any paper received by a district judge, magistrate
25 judge, or clerk which fails to include a certificate of service.

26 DATED: July 23, 2018.

27
28 
VALERIE P. COOKE
UNITED STATES MAGISTRATE JUDGE